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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,005	01/18/2002	Thierry Barboux	GASQ-101	1229

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FAIRFAX, VA 22030

EXAMINER

STASHICK, ANTHONY D

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 05/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

EC

**Office Action Summary**

Application No.

10/053,005

Applicant(s)

Barboux

Examiner

Anthony D. Stashick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \*   c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**DETAILED ACTION**

***Specification***

- ✓ 1. The abstract of the disclosure is objected to because the terms "said" and "means" have been used in the text. These terms are not allowed to be used in the abstract. Correction is required. See MPEP § 608.01(b).
- ✓ 2. The disclosure is objected to because of the following informalities: the insert was referenced as numeral 2 then later referred to as reference numeral 1 on page 6, line 9 and page 9, line 20. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 contains the phrase "holding means" which renders the claim vague and indefinite. It is not clear as to what is meant to be encompassed by this limitation in the claim and the specification lends no additional

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information to aid in clarifying the holding means. Also, it is not clear as to whether applicant is claiming an insert for a sole, a combination of an insert and a sole of a boot or a combination of an insert in a sole of a boot and the snowshoe used with both.

#### *Claim Objections*

5. Claims 5-12 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from a multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on their merits.

#### *Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipate by McKenzie et al. 5,493,794. McKenzie et al. '794 discloses all the limitations of the claims including the

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following: an insert for a sole 40; the insert running transverse the sole (see Figures); the insert having two ends that are located on the lateral sides of the sole (See Figures); length of the insert is independent of the boot size (length of insert is sized to fit across sole); sole designed to be used on more than one boot size (any boot can be fastened to the sole); the ends of the insert have hollow compartments 43; a boot having the sole with insert attached (any boot placed within strappings of the sole); the insert is positioned transverse the sole (see Figures).

8. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipate by Massicotte 3,344,538. Massicotte '538 discloses all the limitations of the claims including the following: an insert for a sole 41; the insert running transverse the sole (see Figure 4); the insert having two ends that are located on the lateral sides of the sole (see Figure 4); length of the insert is independent of the boot size (insert is sized for sole to fit across snowshoe); sole designed to be used on more than one boot size (any boot can be strapped into the sole); the ends of the insert have hollow compartments (the insert is a hollow sleeve); a boot having the sole with insert attached (see

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Figures 2, 2a, 4) ; the insert is positioned transverse the sole  
(See Figure 4).

9. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being  
anticipate by *Ricker et al 3,525,161* McKenzie et al. 5,493,794. McKenzie et al. '794  
discloses all the limitations of the claims including the  
following: an insert (tube 3) for a sole; the insert running  
transverse the sole (See Figure 2); the insert having two ends  
that are located on the lateral sides of the sole (see Figure  
2); length of the insert is independent of the boot size (insert  
length depends on sole size); sole designed to be used on more  
than one boot size (designed to be used across the width of  
ski); the ends of the insert have hollow compartments (insert is  
a tube); a boot having the sole with insert attached (see Figure  
1); the insert is positioned transverse the sole (see Figure 2).

10. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being  
anticipate by the WO reference to Aomori WO00/13538 (WO '538).  
WO '538 discloses all the limitations of the claims including  
the following: an insert 26 for a sole; the insert running  
transverse the sole (see Figure 4); the insert having two ends  
that are located on the lateral sides of the sole (see Figure  
4); length of the insert is independent of the boot size (length

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of insert is that of sole size); sole designed to be used on more than one boot size; the ends of the insert have hollow compartments (see inserts located in Figure 4, insert is a tube); a boot having the sole with insert attached (Figure 4); the insert is positioned transverse the sole (See Figure4).

### *Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are cited on form 892 enclosed herewith.

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, email [CustomerService3700@uspto.gov](mailto:CustomerService3700@uspto.gov).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D. Stashick whose telephone number is 703-308-3876. The examiner can normally be reached on Monday-Thursday, 6:00 am until 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 305-8322
Assignment Branch	(703) 308-9287
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Fee Increase Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408
Informal Fax for 3728	(703) 308-7769

If the information desired is not provided above, or has been changed, please do not call the examiner (this is the latest information provided to him) but the general information help line below.

Information Help line	1-800-786-9199
Internet PTO-Home Page	<a href="http://www.uspto.gov/">http://www.uspto.gov/</a>



Anthony D. Stashick  
Primary Examiner  
Art Unit 3728

ADS  
May 17, 2003